

REMARKS

Further consideration of this application and withdrawal of the new ground of rejection is requested for the following reasons.

Claims 1-4 now stand rejected under 35 U.S.C. § 102 based on the disclosure of the Sarkar et al. patent. However, this rejection is simply not understandable given the Examiner's acceptances of applicants' reasoning as to why the Webb '735 patent does not teach the present invention and the fact that the Sarkar et al. patent is virtually indistinguishable from the subsequent Webb '735 patent of the very same assignee. In this regard, it is pointed out that lines 21-40 that the Examiner has cited from Sarkar et al. are verbatim identical to col. 3, lines 31-50 of Webb '735. Also, Figures 5 of both patents are identical and both patents indicate that the fan used is a fan of the type described in detail in Akins et al. U.S. Patent No. 5,023,884, a copy of which was provided with applicants' response to the first Office Action in November of 2002.

Accordingly, like the fans of the Webb '735 patent and Akins et al. patents, the fan of the Sarkar et al. patent does not show or describe the fan shaft as passing through the body of the fan. To the contrary, rather than teaching that the shaft passes through the center of the fan, Fig. 5 gives the clear impression that the fan body is not designed to enable the shaft to pass through it (the fan 46 is sectioned out in the center with no shaft or shaft aperture being represented), and furthermore, the description of Fig. 5 in column 2, lines 42-62 of the Sarkar et al. patent indicates that the fan system illustrated is "of the type described in detail in U.S. Pat. No. '884" to Atkins et al. and that the illustrated arrangement "permits the DC motor to drive fan 46 ...in the same manner as described in U.S. Pat. No. '884." Accordingly, the Examiner's attention is directed to applicants' prior response where it is explained how the cited Webb '420 patent makes it clear that the fan of the Akins et al. patent does not have the drive shaft passing through the fan body as is the case for the present invention, but rather has the shaft attached to the end plate of the fan.

Likewise, the Examiner's reliance on Sarkar et al. for rejecting of claims 2-4 is also misplaced. Firstly, it is pointed out that it is well recognized that patent drawings are not to scale and it is legally impermissible to rely on the dimensions shown in patent drawings to determine the existence of a claimed relationship to support a rejection with some factual basis for concluding that one skilled in the art would draw the conclusion that the claimed

relationship was being taught by the patent. See, for example, *In re Nash*, 109 USPQ 36,38 (CCPA). Moreover, even if it were not impermissible to rely on the drawing dimensions of the Sakar et al. patent, the fact is that they do not support the Examiner's position. That is, measurement of the diameters **d** and **D** in Fig. 5 of Sakar et al. indicates that the ratio d/D is $5 \text{ mm}/41 \text{ mm} = 0.12$ and less than the minimum value of 0.13 recited in claims 3 & 4. Thus, the subject matter of these claims cannot be considered to have been taught by the disclosure of the Sakar et al. patent.

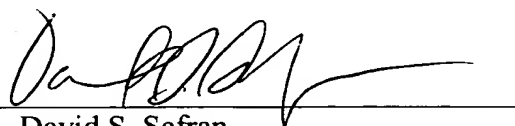
Therefore, since the Sarkar et al. patent is no more relevant than the Webb reference relative to which the Examiner withdrew the rejection which he had previously made, there is no reason why the Examiner should not take the same action relative to the presently outstanding rejection. Accordingly, reconsideration and withdrawal of the rejection under § 102 based on the Sarkar et al. patent are in order and are now requested.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise, which could be eliminated through discussions with applicant's representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

Lastly, it is noted that a separate Extension of Time Petition accompanies this response along with a check in payment of the requisite extension of time fee. However, should that petition become separated from this Amendment, then this Amendment should be construed as containing such a petition. Likewise, any overage or shortage in the required payment should be applied to Deposit Account No. 19-2380 (740145-180).

Respectfully submitted,

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